IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 10890 of 2006(U)

PETITIONER:

A.V.MATHREENJI, ARAKKAL HOUSE,
PUNNAPRA P.O., ALAPPUZHA-688 004.

BY ADV. SRI.MATHEW JAMES

RESPONDENTS:

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1. THE SECRETARY TO GOVERNMENT,
GENERAL ADMINISTRATION (FFPA) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR, ALAPPUZHA.

BY ADV. SRI. K.V. MANOJ, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE LETTER DATED 01.10.2004 FROM THE CHIEF MINISTER'S OFFICE.

EXT.P2: TRUE COPY OF THE LETTER DATED 25.10.2004 FROM THE DISTRICT COLLECTOR, ALAPPUZHA.

EXT.P3: TRUE COPY OF THE PERSONAL KNOWLEDGE CERTIFICATE DATED 10.10.2004.

EXT.P4: TRUE COPY OF THE NON-AVAILABILITY RECORD CERTICATE FROM THE CHIEF JUDICIAL MAGISTRATE COURT, ALAPPUZHA.

EXT.P5: TRUE COPY OF THE LETTER DATED 18.12.2004 SENT BY THE PETITIONER TO THE 2ND RESPONDENT.

/True Copy/

P.A to Judge.

T.R. RAMACHANDRAN NAIR, J

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W.P.(C) NO. 10890 OF 2006

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Dated this the 2nd day of August, 2007.

JUDGMENT

The petitioner is the applicant for the freedom fighters pension who is now aged 86. His claim is on the basis of the participation in the Punnapra-Vayalar struggle. As per Ext.P1, he was informed that his application has been routed to the District Collector. As per Ext.P2, the District Collector directed him to produce the documents either to show jail imprisonment, or for absconding etc. The petitioner has produced Ext.P3, the personal knowledge certificate from Shri.H.K. Chakrapani who was a prominent freedom fighter and who was a recipient of Central Freedom Fighters Pension under the Ministry of Home Affairs Order No. 119/104/99-FF(SZ) dated 18.06.2003. The petitioner has also produced Ext.P4 the non-availability records certificate from the Chief Judicial Magistrate Court, Alappuzha. Ext.P5 is the further letter sent by the petitioner to the District Collector in the matter.

2. In the counter affidavit filed by the Government, it is stated that the application could not be sanctioned for want of more particulars. The learned counsel for the petitioner submits that he may be allowed a further opportunity to produce the certificates including relevant documents relating to the certifier also.

3. One of the grounds stated in the counter affidavit of the Government is that going by the Circular dated 31.08.1003 unless the application is supported by the original documents, the claim cannot be allowed. According to me, such a stand is not correct, since under the original scheme, no such requirement is there and the circular cannot put more rigorous terms than that is provided in the scheme itself. In the absence of original jail records and arrest warrants Personal Knowledge Certificate and the Non Availability of Records Certificate have been acted upon, which is sufficient as per the scheme. If the claim is bona fide the pension cannot be denied at all. Apart from that in similar circumstances as per the judgment in W.P.(C) No. 2669/2003, in the writ petition filed by Shri. P.K. Chellappan, this Court had

directed the Government to consider his application based on the jail records of Shri. H.K. Chakrapani also. It is submitted that the petitioner therein was granted pension by State Government pursuant to the directions of this Court after condoning the delay in filing the application.

4. Therefore, the original petition is allowed. The petitioner is allowed a further opportunity to produce such of all those materials and documents which he want to rely upon. The same shall be done within a period of one month from today. On receipt of the same, the respondent will take a decision on the merits of the claim itself rather than on technicalities. The same shall be done within a period of one month from the date of receipt of a representation and records from the petitioner.

The writ petition is disposed of as above.

T.R. RAMACHANDRAN NAIR, JUDGE.

rv

KURIAN JOSEPH &
T.R. RAMACHANDRAN NAIR, JJ

L.A.A. NO. 805 of 2001

13th day of July, 2007

JUDGMENT